

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

341 MEETING OF CREDITORS
New York, New York
Wednesday, July 8, 2009

Reported by:
KRISTIN KOCH, RPR, RMR, CRR, CLR
JOB NO. 23600

July 8, 2009

10:11 a.m.

341 Meeting of Creditors, held at the Hilton Hotel, 1335 Avenue of the Americas, New York, New York, before Kristin Koch, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter, Certified Livenote Reporter and Notary Public of the State of New York.

1

2 A P P E A R A N C E S:

3

4 UNITED STATES DEPARTMENT OF JUSTICE

5 OFFICE OF THE UNITED STATES TRUSTEE

6 33 Whitehall Street

7 New York, New York 10004

8 BY: ANDREW D. VELEZ-RIVERA, ESQ.

9

10 WEIL, GOTSHAL & MANGES, LLP

11 Attorneys for Debtors

12 767 Fifth Avenue

13 New York, New York 10153

14 BY: AMANDA HENDY, ESQ.

15

16 PANEL MEMBERS:

17 DANIEL EHRMANN

18 BRYAN MARSAL

19 JOHN SUCKOW

20 LORI FIFE

21 SHAI WAISMAN

22 WILLIAM FOX

23 JACK D. McCARTHY, JR.

24 JEFF FITTS

25 DOUGLAS LAMBERT

1
2 MR. VELEZ-RIVERA: Ladies and
3 gentlemen, good morning. I am Andy
4 Velez-Rivera. I am with the office of the
5 United States Trustee here in the Southern
6 District of New York. This is the joint
7 meeting of creditors in the bankruptcy
8 cases of Lehman Brothers Holdings, Inc. and
9 its related Chapter 11 debtors in
10 possession.

11 Under an order of the court these
12 cases are jointly administered and the lead
13 case is Lehman Brothers Holdings,
14 bankruptcy case number 08-13555 (JMP).

15 We appreciate that you all are here.
16 If you haven't signed in outside when you
17 came in, please do so as you exit the
18 facility.

19 I will be presiding over the Chapter
20 11 meeting of creditors this morning on
21 behalf of my client, Diana Adams, the
22 United States Trustee.

23 This is a continued meeting of
24 creditors. Several of you were here back
25 on January 29th when the initial meeting

341 Creditors Meeting

was held in these cases and the protocol and the recordation of the meeting will happen in much the same way.

There is a court reporter present who will transcribe the meeting and her transcription will be the official record of the case. You can contact her directly or my office if you would like a transcript.

The press is welcome to attend because this is an open meeting, however, no press people will be allowed to ask any questions. No video recording of any type will be allowed. No audio recording of any type. No photography, and that includes photos by cell phones. Note taking is just fine, but as I mentioned, you can get the transcript from the reporter.

I'd like to introduce some of the people on the podium.

The gentleman who is second from the last is Mr. Shai Waisman. I will ask him introduce everybody else.

MR. WAISMAN: (Inaudible.)

1 341 Creditors Meeting

2 MR. VELEZ-RIVERA: Okay, we will do
3 that.

4 We will begin with the presentation
5 by Mr. Marsal and then at the conclusion of
6 that he will entertain questions from the
7 audience. At that point only creditors
8 will be permitted to ask questions.

9 All right. Oh, one other word.

10 Mr. Marsal's presentation, as he makes his
11 way up here, what you see on screen has
12 already been filed this morning, I am told,
13 in an 8-K filing and it is also available
14 on their website.

15 MR. MARSAL: Good morning. In
16 January we had a full room and I must tell
17 you I did not expect to get a full room
18 today, but we will do our best to update
19 you on where we are in the matter of Lehman
20 Brothers Holdings.

21 In terms of the current situation at
22 Lehman, over the last -- since we last met
23 in late January there has been steady
24 progress on asset management, claims
25 management, financial reporting and the

1 341 Creditors Meeting

2 litigation aspects of this case. Our
3 liquidity continues to build. The
4 (inaudible) thing is that we are only
5 permitted to put that liquidity into
6 permitted investments and, as you know, the
7 permitted investments are investing in
8 government guaranteed obligations, short
9 term. There is a very poor return.
10 Despite that fact you will see we have
11 \$12 billion in cash today.

12 Reporting, our 12-31-08 balance
13 sheet will be available in early to mid
14 August. That will provide a lot of answers
15 to questions on valuation, what we think
16 the illiquid assets are currently valued
17 at.

18 And last but not least, our
19 financial situation continues to improve
20 (inaudible) the 12-31-08 numbers. We will
21 get more -- we are on an accelerated basis
22 to get more current numbers. We are
23 running the first and second quarter
24 numbers as quickly as we possibly can.

25 In terms of claims management, as

341 Creditors Meeting

you know, there is a Bar date on September 22nd. We are sorting through all the intercompany -- many of the intercompany guaranty issues. This is very complex and is going to take a significant amount of time. Keep in mind that it's our objective that this Bar date is to really put a stake in the ground and try to get a handle on what the claims are to force people to help us analyze and to develop that history.

There has been a tremendous amount of concern, particularly in Europe, and confusion surrounding this Bar date. We are going to work with all bondholders to do what's right by them. And so having said that, we are sympathetic that this is a bit confusing, this process between the guarantees that have been provided by Holdings and the direct loans that have been made to subsidiaries of Lehman.

On the litigation front, there is significant litigation in progress. As you know, we have a matter under way with Bank of America and we have a discovery request

341 Creditors Meeting

that has been made and granted by the court under the Barclay's matter. We also have a number of other issues which are in the process of being developed and pursued. I am not at liberty to really talk about them, but in the coming weeks it will start to become clearer as to what those litigations will be.

Last but not least, we have a significant amount of preference and fraudulent conveyance issues that need to be addressed and business work stream has been developed to address that and we will be assigning legal responsibility to that work stream shortly.

On the personnel front, I thought it was valuable to show you where we are today. The Lehman estate consists of 2,405 head count. Most of the head count, if you look down the vertical axis, you will see the various departments and functional areas. Most of the head count, if you go down to the fourth from the bottom, you will see is at the bank platforms, the

1 341 Creditors Meeting

2 Aurora bank platform and the Utah bank,
3 where we have 1,759 head count. If we go
4 back up -- excuse me. The LBB is strictly
5 Aurora. Below that is the Utah Bank where
6 we have 20 head count. So you see that the
7 estate really consists of the 428 of asset
8 teams and 164 of administrative teams in
9 terms of Lehman personnel.

10 In terms of A&M personnel, of the
11 175 FTEs working from A&M, we have a
12 hundred which are involved in
13 administrative matters, we have 69 which
14 are directly involved in asset matters,
15 with six being involved with the bank
16 platforms. So to look at it a different
17 way, the administration of this case has
18 required about a hundred of Alvarez &
19 Marsal FTEs.

20 Let's look at of the 175, let's look
21 at what they are doing. On the finance,
22 treasury and tax front, it's clear they are
23 trying to get the books and records out,
24 trying to get them straightened and trying
25 to deal with many of the tax issues and to

1 341 Creditors Meeting

2 deal with the cash management of a
3 liquidating situation.

4 Next category, IT wind-down, we were
5 left with a challenge when Barclay's took
6 over the technology of Lehman. Barclay's
7 agreement permits us two years to depend on
8 Barclay's system, at which point they can
9 cut us off of that IT system, so we have
10 been in a rush to get our own stand-alone
11 IT system up so we can track these assets
12 into the future.

13 This is a very project-oriented
14 group and the job should be largely done by
15 the end of this calendar year into the
16 first quarter of 2010. It's our objective
17 to be independent of Barclay's by the end
18 of the first quarter certainly.

19 Next category, which is claims
20 management, CMS, data and forensic, the
21 head count here is really focusing on three
22 major activities. One is the forensic
23 activities to support the litigations that
24 are under way. The other is to support the
25 data requests both of the examiner and the

341 Creditors Meeting

other receivers and of our own organization and trying to reconstruct some of the activities that occurred prior to the filing.

Looking at the asset teams, what you see there is you see a relationship of it's really one Alvarez & Marsal person to every seven legacy Lehman people. We believe that that is -- the mix varies, but as you see the bulk of the people on this case in terms of legacy Lehman are the asset teams, the bulk of the A&M people are in the administrative teams.

In terms of key responsibilities for A&M, we went over this back in January, but we will do it again. The first responsibility is maximize the recovery value of the assets. There are five asset teams in place. Each of those teams, the tasks are defined and the plans are being executed as opposed to before when plans were being developed. We pretty much know what we have to do in each of those asset categories and people are doing it. It's

341 Creditors Meeting

actually working quite well.

The second key objective, which is to mitigate potential liability and reconcile claims, the key open issues there is resolving the derivative claim termination values, the unfunded commitments, getting out of those unfunded commitments both in terms of the bank, the bank book, as well as the private equity unfunded limited partner responsibility, the GP responsibility, and sort through all the parent guarantees that we have for all the various Lehman subsidiaries, as well as to sort out from the clearing bank standpoint what happened with our various clearing banks. We have identified various claims against us which we are now investigating.

The third key objective was to meet the needs of the court, the U.S. Trustee and the Unsecured Creditors Committee to attempt to timely reporting, transparency, and cost effective administration of the case. I am pretty proud of what we have

341 Creditors Meeting

done to date. I think we have moved that up at a pretty good pace given the complexity of this case. What I would say to you is just in the case of Alvarez & Marsal, we have over twenty teams, which a team would be the equivalent of which would work on one case normally, so this is twenty times the normal A&M size case.

In terms of asset reports, the first key asset to talk about is the bank platforms. There is really no surprise here. On the bank asset front things are stabilized. Asset values are becoming -- we have written it down to levels that we feel very comfortable with. The concern we have on the bank platforms is with all the reforms going on in Washington, things are a bit confusing right now. The FDIC has sort of changed the rules of the game in terms of their willingness to permit us to open up broker CDs again and the office of the Thrift has really been merged into the control of the currency, so there is lots of confusion on that regulatory front.

341 Creditors Meeting

The bank book, we have unfunded commitment obligations continue to be eliminated. As we will discuss later, there has been a stampede to clean up the unfunded revolvers and we have (inaudible) of \$3.8 billion in the pipeline, so we are going to be making some major headway in the next 60 days on cleaning up the unfunded liabilities. It's going very well.

The value of the portfolio, it's stabilized. The portfolio actually has increased in value over the last three months.

In terms of the principal investments and private equity, our focus was on the stabilization and to spin out those funds (inaudible) general partner with a significant unfunded liability or unfunded responsibility. To the extent that we do not meet that responsibility, as you know, it jeopardizes the value of our LP interest, any residual LB interest we had, so we have been undertaking to try and

341 Creditors Meeting

put the general partner interest in the hands of others. We held an auction and we had over a hundred potential interested parties. At the same time as the general partner we felt it our primary responsibility given the fact we only owned 14 or 16 percent of the fund, the other 86 percent of the fund was owned by LPs, we felt our responsibility was first to those LPs to find out who they wanted to manage the fund, and the LPs overwhelmingly voted for the former management of Lehman to run that fund, and that management team, the private equity management team will proceed on as the general partner replacing Lehman.

In terms of the real estate assets, again, I put in there Canyon Ranch, Miami. This is a situation where we actually went on the offensive. We weren't purely a lender, but, in fact, we were an equity holder. We went on the offensive. We cleaned up the mezz. We got rid of the -- cleaned up the equity, cleaned up the mezz, permitting us to really operate legally and

341 Creditors Meeting

financially as owner, and then we took actions to try and clean up and move the 280 unsold units. That move has been very positive. The board has supported our moves and I think that the results to date support that action.

Fundamentally, real estate, we are shifting from being a portfolio manager who is waiting for a better market to an asset manager that is working the assets and we will get to a better market, but we recognize that as an asset manager we are very much in competition with others who are trying to take our value and put it into their building or their piece of property. So we have gone on the offensive. I would say in the last three months we have been very much more an asset manager than a portfolio manager.

On the derivative front, as you will see, we have collected close to \$6 billion, implementing hedging strategies and various other strategies of assignment which I think are actually maybe making law or

1 341 Creditors Meeting

2 precedent right now, so it's an interesting
3 time for us in the derivatives world.

4 On the international front, we have
5 the Lavender portfolio, which is a
6 portfolio of loans, real estate loans in
7 Japan. We went in with that looking at a
8 mid teens kind of recovery. We took a
9 proactive role along with the help of the
10 receiver in Hong Kong and we have actually
11 presented a credit bid concept to the
12 Japanese, which was somewhat unique. The
13 result of that credit bid concept was we
14 got the recovery in excess of mid 40s up
15 from the 14, 15 percent recovery range that
16 had been forecasted. So by putting a
17 stalking horse in there ourselves, we were
18 able to get an honest bid out of the
19 marketplace.

20 We are in discussions on Bankhaus,
21 which is a major subsidiary and creditor of
22 ours, on trying to settle out of some of
23 the asset issues that we have with them.

24 On the intercompany side we still
25 have a limited understanding of LBI

341 Creditors Meeting

activities. The LBI and LBIE, they really provide -- LBIE is the European, the U.K. receiver. LBI is the SIPA receiver. And we really have minimum transparency with what is going on in those estates. Given the fact that we are probably the largest creditor, it's a little frustrating not knowing what's happening in those estates, not knowing officially what's going on in those estates.

Our relationship with KPMG receiver in Asia, we have been able to work together on protocols and deal with problems, and as a consequence liquidation results have been really very strong.

International protocol, what this is is trying to get receivers in various countries to work together so we can get out of this case before I die. And the issues that we have are really you have got rules in each country. Obviously the rules in that country will govern. There is no question about the sovereignty, but the cooperation and information sharing, having

341 Creditors Meeting

a common objective of trying to do right by the creditors, trying to get through these matters in a fair way, trying to get through these matters in a cooperative way has been very important and that's what Judge Peck has supported in this protocol, and aside from the U.K. and Japan we have received support from the administrators in the other receiverships.

Challenges. Again, on the LBI front it's not clear to us what's going on in that estate, lack of transparency. As the largest creditor we remain in the dark as to the substantial amount of the ultimate recovery or lack of recovery.

On the LBIE front, we could use improved cooperation. It's a very conservatively-administered estate and that has handicapped us.

In terms of our financial position -- again, there is a lot of detail. I apologize. I don't think there is any other way we could provide it, though. You see on the vertical axis is

1 341 Creditors Meeting

2 all the various subsidiaries along with the
3 parent.

4 As we showed you in January, we are
5 treating this as the subsidiaries are
6 sacred, cash goes in there, cash stays in
7 there. There isn't a commingling of the
8 cash. There is a clear audit trail of all
9 the cash receipts and disbursements related
10 to the various subsidiaries into the
11 holding company.

12 The cash, if you look across the
13 horizontal access, it is sort of an
14 activity report of where we are. Where we
15 are today, our cash position today is
16 \$12.2 billion as of 6-30. You see the
17 various components of it in terms of the
18 debtor, non-debtor components, and all the
19 accompanying footnotes. Again, this is on
20 our website and it was filed as an 8-K this
21 morning.

22 Bank platforms, the first one I'd
23 like to cover is the bank which is Utah.
24 This bank there has been significant
25 progress. As you can see to the far right,

341 Creditors Meeting

underlying assets themselves, are they in a financing structure similar to the loan book or are the bottom line assets unencumbered and the nature of the claims through claims creditors against its assets?

MR. SUCKOW: We are just a creditor in those assets.

SPEAKER: I have one further question.

MR. VELEZ-RIVERA: No.

SPEAKER: Hi, Mark Heimowitz
(phonetic) from Citi.

Mr. Marsal, you mentioned that you are looking at all of the recoveries on an individual subsidiary basis and looking at subsidiary guarantee claims. In your experience now in the books and records of the company, is there any entanglement issue or are the books and records clean and unencumbered between subsidiaries and Oldco?

MR. EHRMANN: I think it's fair to say we are still reconciling (inaudible).

1 341 Creditors Meeting

2 SPEAKER: And with respect to
3 transactions with the outside world, has
4 there been any work done on whether or not
5 if the creditors of the subsidiaries relied
6 on the individual credit quality of the
7 subsidiaries as opposed to the credit --

8 MR. EHRMANN: We are not going to
9 comment on what other people rely on.

10 SPEAKER: I guess the final
11 question, are you exploring the concept of
12 substantial consolidation of the --

13 MR. WAISMAN: We are exploring all
14 legal options with respect to the estates.

15 MR. MARSAL: Our approach is not to
16 assume there is going to be any substantive
17 consolidation. That will obviously be a
18 decision that will be made later by the
19 court. Our approach is to keep each
20 subsidiary, to respect the integrity of the
21 legal entity structure.

22 SPEAKER: I am Fayel Romano
23 (phonetic) of SGE from Italy and I
24 represent Antonio (phonetic) creditors.

25 The question is related to guarantees. In

1

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK)

5) ss.:

6 COUNTY OF NASSAU)

7

8 I, KRISTIN KOCH, a Notary Public
9 within and for the State of New York, do
10 hereby certify that the within is a true
11 and accurate transcript to the best of my
12 ability of the proceedings held on July 8,
13 2009.

14 That I am not related to any of the
15 parties to this action by blood or
16 marriage; and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this 9th day of July, 2009.

20 -----

21 KRISTIN KOCH, RPR, RMR, CRR

22

24

25